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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,065	05/30/2006	Paolo Mangione	LDR/12/US/ AK 165456	6582
26201	7590	10/28/2009		
FISH & RICHARDSON P.C. P.O BOX 1022 Minneapolis, MN 55440-1022			EXAMINER LAWSON, MATTHEW JAMES	
			ART UNIT 3775	PAPER NUMBER
			NOTIFICATION DATE 10/28/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/575,065

Applicant(s)

MANGIONE, PAOLO

Examiner

MATTHEW LAWSON

Art Unit

3775

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

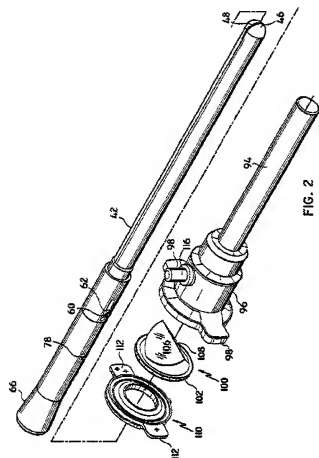
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauer et al. (US 5,620,456).

Regarding claims 1-6 Sauer discloses a device for sectioning a vertebral lamina, having a base (see figure 4, below) for positioning the device and protecting the medullar canal when sectioning the lamina, sectioning means (see figure 4, below) slide-mounted in the base along a first axis contained in the longitudinal plane of symmetry of the device, a first piston (50, figure 6) slide-mounted in a sleeve (42, figure 6) of the sectioning means (column 5, lines 35-39) along a second axis contained in the longitudinal plane of symmetry of the device and secant to the first sliding axis of the sectioning means, a second piston (60, figure 4) made integral with the first piston and slide-mounted in the base along a third axis contained in the longitudinal plane of symmetry of the device, the sectioning means being provided with a cutting element (122, figures 11-13) lying within the longitudinal plane of symmetry of the device, and oriented in opposite direction to the second piston with respect to the sleeve, and the sliding of the second piston along the third axis causing sliding of the sectioning means along the first axis via the first piston. The cutting element being beveled (128, figures

11-13) to facilitate sectioning of the vertebral lamina. The second piston (60, figure 4) consists of a body (see figure 4, below) provided, at one of its ends, with a ring (52, figure 4) into which the second piston (50, figure 4, column 4, lines 47-67) engages, the ring being held on the piston by a screw head (62, column 5, lines 62-63) and, at the other of its ends with a handle (22, figure 5); the body being slide-mounted in a hollow tube (12, figure 1) of the base of the device, and the handle being sized larger than the tube (12, figure 1) diameter to act as abutment to counter the weight effect of the second piston sliding within the tube.; the bottom part (see figure below) tapering toward a direction opposite the base tube (12, figure 1) and the first portions (44, figure 4, column 5, lines 37-39) of the side faces are provided with a recess (48, figure 2, column 5, lines 36-45) enabling the bottom part to slide between the lamina to be sectioned and the dura matter and acting as an abutment for the device against the lamina of the vertebrae to better facilitate bone tissue removal. The sectioning means are slide-mounted on a bottom part (see figure 5, below) of the base (4), provided with a slide rail (see figure 4, below) for the cutting element (122, figures 11-13), the bottom part connecting first portions (see figure below) of two side faces of the base arranged facing one another, the longitudinal axis of said first portions being parallel to the first axis. The tube portion of the base is formed on the second portions of the side's faces of the base, and the second portions (see figure below) of the base (4) side faces having their longitudinal axis parallel to the third axis.



Response to Arguments

Applicant's arguments filed July 27th, 2009 have been fully considered but they are not persuasive. Regarding the argument that Suaer does not disclose the sectioning means slide-mounted in the base along a first axis and a first piston slide-mounted along a second axis secant to the first sliding axis of the sectioning means; the examiner respectfully disagrees. The slide-mounted sectioning means shown above are mounted in the base along a first axis (the slot, 124, figures 11-13) and the first piston as shown above is slide mounted along a second axis which is secant to the first sliding axis (along the length of the piston); accordingly, Sauer does teach all of the claimed

limitations of the current application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MATTHEW LAWSON** whose telephone number is (571)270-7375. The examiner can normally be reached on **M-F, 8am-5pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art
Unit 3775